

Title: Wales Bill IA No: N/A Lead department or agency: Wales Office Other departments or agencies: HM Treasury and HM Revenue and Customs	Impact Assessment (IA)		
	Date: 10/06/2014		
	Stage: Final		
	Source of intervention: Domestic		
	Type of measure: Primary legislation		
Contact for enquiries: Stuart Doubleday 0207 270 0579			
Summary: Intervention and Options		RPC Opinion: Not Applicable	

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out? Measure qualifies as
			No NA

What is the problem under consideration? Why is government intervention necessary?

The Wales Bill provides the legislative framework to support the implementation of the recommendations made in the Commission on Devolution in Wales's (Silk Commission) Part I report, published in November 2012 and the green paper on future electoral arrangements for the National Assembly for Wales ("the Assembly") published in May 2012.

What are the policy objectives and the intended effects?

The Bill would move the Assembly to five year fixed terms with the aim of making it less likely that Assembly elections would coincide with UK parliamentary elections, and introduce additional electoral provisions to make Assembly elections fairer. The Bill devolves tax and borrowing powers to the Assembly and the Welsh Ministers, giving the Welsh Government more tools to promote economic growth and grow the Welsh economy, and making the devolved institutions more accountable by making them accountable for raising some of the money they spend.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

The provisions relating to elections to the Assembly were subject to a public consultation between May and August 2012. A summary of responses was published in November 2012. The recommendations made by the Commission on Devolution in Wales (Silk Commission) in its first report were based on evidence that it had taken from across Wales and further afield. In November 2013 the UK Government accepted most of the Commission's recommendations to devolve tax and borrowing powers to the Assembly and the Welsh Government.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 03/2018						
Does implementation go beyond minimum EU requirements?			N/A			
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: Nil		Non-traded: Nil	

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible SELECT SIGNATORY: _____ Date: _____

Summary: Analysis & Evidence

Policy Option 1

Description: Devolving tax and borrowing powers to the National Assembly for Wales.

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years NA	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: Minimal

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	£45mil	£4.2mil	TBC

Description and scale of key monetised costs by 'main affected groups'

UK Government: Welsh Government borrowing will add up to £500m to overall UK public borrowing and net debt.

Other key non-monetised costs by 'main affected groups'

Welsh Government: Devolution of tax powers will increase the volatility of the Welsh Government's budget, although new tax management tools (a cash reserve and current borrowing powers) are being provided to deal with this.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0	0	0

Description and scale of key monetised benefits by 'main affected groups'

None

Other key non-monetised benefits by 'main affected groups'

Welsh Government: Increase the accountability and autonomy of the WG. Will enable the WG to self-fund a larger proportion of its spending, implement devolved taxes, and decide when and how to borrow to invest further in infrastructure. UK Government: This enables the Government to devolve further powers and responsibilities to the most appropriate level, consistent with its broader approach to localism. The devolution of tax and borrowing powers provides the WG with additional levers to drive economic growth in Wales.

Key assumptions/sensitivities/risks

N/A

Discount rate (%)

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:	In scope of OITO?	Measure qualifies as
Costs: See p10	No	NA
Benefits: £0		
Net:		

Summary: Analysis & Evidence

Policy Option 2

Description: Length of Term for the National Assembly for Wales

FULL ECONOMIC ASSESSMENT

Price Base Year 2013	PV Base Year 2012	Time Period Years 35	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: £4.5m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	NA	£0.9m	£27.2m

Description and scale of key monetised costs by 'main affected groups'

As a result of moving to five-year fixed Assembly terms, elections will be held in 2021, 2026, 2031, 2036 and every five years thereafter. These election years will incur two key monetised costs: the Government is expected to incur a £5.1m (in 2013/14 price terms) administrative cost of running elections and £0.2m in severance costs. Political parties are expected to incur a cost of £1.1m. Because elections are rarer however this will be less costly than maintaining four year terms.

Other key non-monetised costs by 'main affected groups'

Five year terms can be criticised as being too long - allowing Governments to remain in power longer than their perceived natural lifespan, which could lead to public dissatisfaction with the both the Government and the political process as a whole. However, programmes for government are constructed to fit the term length of the legislature, and the UK parliament has five year fixed terms.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate		£1.0m	£31.7m

Description and scale of key monetised benefits by 'main affected groups'

Under this option elections will no longer be held in 2020, 2024, 2028 or 2032. These election years thus incur two key monetised savings: a £5.1m administrative saving from not running elections and £0.2m redundancy payouts (2013/14 price terms). Where Assembly elections would have run concurrently with Westminster elections (in 2020 and every 20 years thereafter) the saving would have been a lower £4.0m as concurrent elections are cheaper.

Other key non-monetised benefits by 'main affected groups'

Ensuring that Assembly and parliamentary elections are not normally held on the same day prevents potential confusion for voters, reducing the likelihood of spoilt ballots, to the benefit of the democratic process in Wales.

Key assumptions/sensitivities/risks

Assumes that no extraordinary Assembly or Parliamentary elections are called; assumes all costs rise in line with inflation; assumes that political party expenditure at all Assembly elections is an average of total real party expenditure in four previous Assembly elections; and assumes that all Assembly members who lose their seats are entitled to a full 6 months redundancy pay.

Discount rate (%)

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: NA	Benefits: NA	Net: NA	No	NA

Summary: Analysis & Evidence

Policy Option 3

Description: Multiple Mandates

FULL ECONOMIC ASSESSMENT

Price Base Year 2013	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: -£0.1m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	NA	£0.01m	£0.1m

Description and scale of key monetised costs by 'main affected groups'

Assembly Members who are also MPs have their salaries reduced by 2/3, or £36,000 in 2013/14. Currently no Assembly Members are also sitting MPs, but since 2003 there have been three years in which an Assembly Member has held a dual mandate. Assuming that the number of dual mandates remains constant (at 0.4 Assembly Members pa), and that the 0.4 Assembly Members claim a salary, there would be an average annual saving of £13,600 (£36,000 x 0.4) lost as a result of this option.

Other key non-monetised costs by 'main affected groups'

Sitting in two legislatures at the same time can promote closer ties between the two legislatures which would be lost when dual candidacy is banned.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate			

Description and scale of key monetised benefits by 'main affected groups'

None

Other key non-monetised benefits by 'main affected groups'

A prohibition on dual mandates between the Assembly and Westminster helps ensure electors in Wales are being fully represented in both legislatures.

Key assumptions/sensitivities/risks

Assumes that the number of members of the Welsh Assembly who are also sitting in the House of Commons remains constant at 2003-11 levels; that Welsh Assembly salaries will rise in line with inflation; and that the prohibition is implemented in 2015.

Discount rate (%)

3.5%

BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: NA	Benefits: NA	Net: NA	No	NA

Evidence Base (for summary sheets)

PART 1 - ELECTORAL MEASURES WITHIN THE WALES BILL

MOVE TO FIVE YEAR TERMS

Problem under consideration

The Fixed-term Parliaments Act 2011 moved the next Assembly election forward by one year to 2016 on a one-off basis to avoid a coincidence with the next UK parliamentary election in 2015. However the Assembly reverted to four year terms thereafter and there is scheduled to be both a UK General Election and an Assembly Election in Wales.

Policy objective

The Government wishes to ensure that Assembly elections are as fair and equitable as possible, providing any Welsh Government with a clear and undisputed mandate.

Description of options considered (including do nothing)

As part of the Green Paper on Future Electoral Arrangements for the National Assembly for Wales ("the Green Paper") the Government consulted on permanently extending Assembly terms to five years in order to reduce the likelihood of them coinciding with parliamentary elections in the future. The alternative option was to leave Assembly terms at four years and accept that some Assembly elections will coincide with UK parliamentary elections (every twenty years).

Costs and benefits of each option (including administrative burden)

A majority of respondents to the consultation favoured the option of moving to a five year Assembly term and in March 2013 the Secretary of State for Wales announced the Government's intention to move the Assembly to five year terms with elections taking place every five years from 2016. The Bill provides for this.

The Government is concerned that a UK-wide poll such as a parliamentary general election could overshadow a poll held only in Wales. It is to be expected that much of the media attention would be focussed on the UK-wide poll rather than the Assembly election. The Government wants to minimise confusion among voters as to what, and who, they are voting for, so a change to five year Assembly terms to avoid this is necessary.

Extending Assembly terms from four to five years would require elections to the Assembly to be held less frequently. The Green Paper identified that the administration of an Assembly election costs £5.0m in 2012/13 price terms (£5.1m in 2013/14 price terms), and a political parties a further £1.1m in 2012/13 price terms (£1.1m in 2013/14 price terms), yielding a small saving of £4.4m in Net Present Value terms (£4.5m in 2013/14 Net Present Value terms).

Direct costs and benefits to business

None

DUAL CANDIDACY

Problem under consideration

The Government of Wales Act 2006 modified the original devolution settlement to ban candidates at an Assembly election standing simultaneously in both a constituency and on a regional list. This provision has been considered unfair on smaller parties in Wales who may have a smaller pool of high quality candidates to represent them in elections. It also intensifies the issue of list candidates gaining by the defeat of their constituency counterparts.

Policy objective

To make the electoral system in Wales as fair as possible to all candidates and ensure the best possible Assembly Members.

Description of options considered (including do nothing)

In the Green Paper, the Government consulted on overturning the ban on dual candidacy introduced in the 2006 Act. The Government also sought views on the alternative option, retaining the current ban.

Costs and benefits of each option (including administrative burden)

In March 2013 the Secretary of State for Wales announced the Government's intention to remove the prohibition on dual candidacy at Assembly elections. A small majority of respondents to the consultation were in favour of retaining the ban, but the Government does not think that a strong enough case for this was made in the consultation responses.

In the Green Paper no additional monetary costs were identified in overturning the ban on dual candidacy.

Direct costs and benefits to business

None

BAN ON MULTIPLE MANDATES

Problem under consideration

It is currently possible to sit as both an MP and an AM simultaneously, a position that is being banned in Northern Ireland. This is a position which many feel is both unfair and untenable.

Policy objective

A large majority of respondents to the Green Paper were in favour of prohibiting so called "double jobbing", and the Government is seeking to introduce such a ban. The Bill contains provisions to prevent a Member of Parliament from sitting as an Assembly Member at the same time, outside of an 8 day grace period.

Description of options considered (including do nothing)

In the Green Paper the Government consulted on two main options: continuing to allow AMs to also sit as MPs, or preventing this from happening in the future. As part of the latter option, the Government considered that this could be implemented either through agreement between political parties or ensure it is enduring through legislation. The Green Paper also sought views on whether any ban should also cover members of the House of Lords in the future. A number of respondents also raised the possibility of banning multiple mandates for other electoral representatives such as MEPs, Councillors and Peers.

Costs and benefits of each option (including administrative burden)

A majority of respondents to the consultation favoured prohibiting "double jobbing", and the Government announced in March 2013 its intention to introduce a ban. While links between the different legislatures in the UK are important, and to be encouraged, the Government does not believe it is possible for an Assembly Member to fully represent their constituents or to give their full attention to their role as an AM if they must also spend a significant portion of their time in Westminster.

The Green Paper identified a potential cost of £13,600 per annum to the Assembly of implementing the provisions, as AMs who currently also sit as MPs have their salaries reduced by two-thirds, and banning

such arrangements would mean that more AMs would be paid their full salary. However, at present no AMs also sit as MPs so no additional cost would currently be incurred by this change. We believe any additional cost incurred would be outweighed by electors in Wales knowing they are being fully represented by those they elect.

The Green Paper also sought views on whether the ban on multiple mandates should apply to members of the House of Lords, although the Government decided against this course of action. Respondents also raised the issue of prohibiting local councillors and Members of the European Parliament (MEPs) from also sitting as AMs.

We want to ensure that AMs are of the highest possible calibre, and to prevent councillors from sitting as AMs would reduce the pool of talented candidates available to political parties, potentially leading to a decline in the quality of AMs elected to the Assembly itself.

Since the Assembly was established, no AM has also held a seat in the European Parliament. Some EU Member States prevent members of sub-national legislatures from also sitting as MEPs but on a country-wide basis. Legislating on this basis across all the UK's sub-national legislatures would be outside the scope of this Bill.

Direct costs and benefits to business

None

Part 2 - TAXATION MEASURES WITHIN THE BILL

NEW DEVOLVED TAXES

Problem under consideration

It may be necessary/desirable to introduce new devolved taxes in Wales, either through the Government devolving further existing taxes or through the Welsh Government creating new devolved taxes in Wales.

Policy objective

To be able to introduce new devolved taxes in Wales with the appropriate level of parliamentary scrutiny.

Description of options considered (including do nothing)

The UK Government has accepted the recommendation of the Commission on Devolution in Wales (Silk Commission) that the Welsh Government should be given the power to legislate to introduce specific taxes in Wales, with the agreement of the UK Government. At the same time, the UK Government wants to be able to devolve further existing taxes with the agreement of the Welsh Government. In both scenarios, this would be subject to a “no detriment” principle, whereby an adjustment to the Welsh Government’s block grant would be made if a new devolved tax in Wales was expected to reduce revenues to the Exchequer.

This would be achieved through the provision in the Bill of an Order in Council process for specifying an additional devolved tax, subject to Parliamentary approval by both Houses of Parliament and the Assembly.

It would be possible to provide for an Order in Council process which did not need formal parliamentary approval. A further alternative would be not to include this power in the Bill so that the creation of additional devolved taxes would require further primary legislation.

Costs and benefits of each option (including administrative burden)

There is already a clear case where the Government may, in the future, wish to use this power. This relates to the aggregates levy, which the Government intends to devolve subject to the satisfactory resolution of current legal challenges. The Government would not wish to be required to use parliamentary time on primary legislation to achieve this. The same circumstances may well apply to other minor taxes in the future. Nevertheless the Government is committed to adequate parliamentary scrutiny of such a decision and the affirmative resolution procedure is felt to be the most appropriate option.

It is not currently possible to quantify the costs or effects of creating further devolved taxes in Wales, as decisions on the design and administration of new devolved taxes would be a matter for the Welsh Government.

Direct costs and benefits to business

None. As stated above, the costs of any changes to the current tax regime would be a matter for the Welsh Government and need to be considered on a case by case basis.

INCOME TAX

Problem under consideration

The terms of reference for Part I of the Silk Commission's remit set out that its role was "To review the case for the devolution of fiscal powers to the National Assembly for Wales and to recommend a package of powers that would improve the financial accountability of the Assembly, which are consistent with the United Kingdom's fiscal objectives and are likely to have a wide degree of support". The underlying principle of the taxation measures included in the Bill is to substitute part of the block grant with the power for the Assembly to raise some of its own revenue through levying taxes, thereby increasing the accountability of the Assembly and Welsh Government to the people who elect them.

The key tax that the Commission recommended devolving in order to increase accountability was an element of income tax.

Policy objective

To increase the accountability of the Welsh Government by giving it responsibility for funding a larger part of its spending and linking the size of its budget to economic growth in Wales.

Description of options considered (including do nothing)

Option 1 – 10p income tax with lockstep

The Bill provides for the Welsh Government, subject to a referendum, to share the income tax base in Wales with the UK Government. This would involve deducting 10p from each of the basic, higher and additional rates of income tax in Wales and allowing the Welsh Government to determine, and the Assembly to set, a single Welsh rate of income tax across all tax bands. The structure and thresholds of the wider UK income tax system would still be determined by the UK Government. HMRC would continue to collect this new Welsh rate of income tax within existing PAYE and Self Assessment tax collection frameworks. The Welsh rate will apply only to income from earnings, pensions and other non-savings sources.

Option 2 – 10p income tax without lockstep

The Commission recommended that the Welsh Government should be able to set separate Welsh rates of income tax for each of the three bands, rather than the system set out above (which is the same as that being introduced by the Scotland Act 2012), whereby a single Welsh rate will apply across all bands.

Option 3 – Don't devolve 10p of income tax

Costs and benefits of each option (including administrative burden)

The Commission highlighted a number of benefits of devolving an element of income tax. In particular, it recognised that income tax is the largest of the UK-wide taxes (generating around 30% of total tax revenue in Wales, some £4.85bn in 2010-11) and one that most people pay, so much of the Welsh population would have a clear interest in the decisions on income tax made by the Assembly. The Commission's poll on the question of income tax devolution found that 64% favoured it, with 33% against. The Commission noted one of the main findings of the poll was that a majority believed that if income tax powers were devolved, the Welsh Government would work harder to increase revenues and help the Welsh economy to grow.

Devolving an element of income tax would therefore provide the Welsh Government with the ability to vary its budget and clearly increase its accountability to people in Wales. It would also provide a substantial independent revenue stream against which the Welsh Government could borrow to invest in infrastructure in Wales. The Commission further recommended a block grant adjustment mechanism (in relation to income tax devolution) that would directly link the size of the Welsh Government's budget to economic growth in Wales, while shielding Wales from UK-wide macro-economic impacts that the UK Government is better placed to manage.

The UK Government therefore believes that there would be significant benefits associated with devolving an element of income tax to the Assembly.

However, while the Commission recommended that the Welsh Government should be able to set separate Welsh rates of income tax for each of the three bands, the Government believes that a single Welsh rate for all three bands (as is being introduced in Scotland) is the most appropriate system for Wales. The Government is firm in its view that the income tax structure is a key mechanism to redistribute wealth across the whole of the UK, which is why the “progressivity” of this system is properly determined at the UK level. The inclusion of the lock-step is also consistent with the principle that fiscal devolution should not benefit one part of the UK to the detriment of another - this could occur if the Welsh Government is able to set a substantially lower rate for higher/additional taxpayers without needing to change the basic rate (attracting higher earners across the border, benefitting Wales to the detriment of the UK as a whole). The Government therefore believes that the lock-step system achieves the key benefits identified by the Commission (providing the Welsh Government with flexibility over tax and spending, while increasing accountability for funding its spending) while maintaining a consistent UK-wide redistributive structure and minimising the associated risks of tax competition.

In the event of an affirmative vote in a referendum, the implementation of the Welsh rate of income tax will involve some costs. Consistent with the UK Government’s *Statement of Funding Policy*, these costs of devolution will need to be met by the Welsh Government. The cost of updating HMRC’s IT systems and operational processes to support the changes to income tax powers brought about by the Scotland Act 2012 have been estimated to be in the region of £35-40m, with annual running costs of around £4.2m. Lessons learned in the work currently being carried out by HMRC may help to minimise implementation costs in Wales, especially as the proposed Welsh rate would operate on the same basis as the Scottish equivalent. The fact that Wales has a smaller population than Scotland may mean that non-IT costs resulting from contact with taxpayers are lower, although the greater economic activity on the border between Wales and England (than between Scotland and England) could give rise to proportionally more enquiries from Welsh taxpayers and therefore offset some of these savings. Additionally, the introduction of the Welsh rate may mean that HMRC has to expand the capacity of its Welsh language helpline to support its customers and handle specific questions. Additional compliance costs related to the treatment of certain tax reliefs and incomes such as Gift Aid and tax relief for pension schemes may also be incurred. Updated implementation costs for the Scottish rate of income tax are due to be published in April and it may be possible to produce an estimate specifically for the implementation of the Welsh rate during the passage of the Bill through Parliament using these figures.

Similarly any costs arising from the need to adapt benefit payment systems would fall to the Welsh Government. This may arise as a consequence of, for example, the interaction between the tax system and certain benefits operated by the Department for Work and Pensions.

Direct costs and benefits to business

All employers in the UK, regardless of where they are based, may be affected as their payroll systems will need to be able to operate PAYE at the Welsh rate of income tax for Welsh taxpayers. The provisions in the Bill operate on the same basis as the Scottish rate of income tax, which is expected to be introduced in April 2016 – employers and payroll providers will need to amend their systems following the introduction of the Scottish rate. The precise impact on systems will therefore depend on the extent to which they have previously been updated to deal with the Scottish rate of income tax. The fact that the two rates are designed to operate in the same way may help to reduce costs to business.

REFERENDUM

Problem under consideration

How should the approval of the Welsh electorate be sought for the devolution of income tax powers to the Welsh Government?

Policy objective

The Government wishes to ensure that the people of Wales have agreed to the devolution of income tax powers.

Description of options considered (including do nothing)

The Bill implements the Commission's recommendation that a referendum should be held before any income tax varying powers are devolved to Wales. A referendum would be triggered by a vote in the Assembly, and the majority of voters in that referendum would need to support the devolution of 10p of income tax with lockstep (option 1 in the previous section) in order for the Assembly to be able to set a Welsh rate of income tax.

Other options considered stop short of implementing the Commission's recommendation. These include "do nothing" - simply implement the devolution of income tax without any reference to the Welsh electorate - or rely on the inclusion of income tax devolution in party manifestos for the 2015 General Election (and/or the 2016 Assembly election) in order to confer the necessary political legitimacy.

The Government favours neither of these alternatives. Income tax devolution would be a significant constitutional change, more significant than the devolution of either stamp duty land tax or landfill tax in terms of the quantum of tax revenues and the numbers of people in Wales paying the tax. The Welsh electorate should therefore give its view on the principle of income tax devolution before it goes ahead. The Scottish electorate was similarly consulted in a 1997 referendum before an element of income tax was devolved to Scotland, and the Government sees no reason why the Welsh electorate should not be similarly consulted.

The Welsh Affairs Committee supported this view in its report on pre-legislative scrutiny of the draft Wales Bill, concluding that "Tax devolution is an important constitutional change and one that requires the principle to be established by the electorate before commencement."

Costs and benefits of each option (including administrative burden)

The Government agrees with the findings of the Commission that "a referendum should be held in Wales before any fundamental shift in tax-varying powers...occurs." In 2011 a referendum was held in Wales on whether the Assembly should have full law-making powers in the twenty areas devolved to it, while the 1997 Scottish devolution referendum included a question on income tax powers. The Government considers that it would be wrong not to give the people of Wales the same choice as the people of Scotland had in 1997.

The Electoral Commission reported that the 2011 referendum campaign cost a total of £5.89m. This figure was less than originally expected, in part because no official "yes" and "no" campaigns were designated by the Electoral Commission, and therefore no public funds were spent on their campaigning. In the event of a referendum on income tax powers, the majority of the cost would fall to the Welsh Government, who would be responsible for the electoral arrangements. Any costs of a referendum campaign which fall to the Electoral Commission, such as publicity campaigns it runs and any funds it provides to designated "yes" or "no" campaigns, would be paid to the Commission by the Speaker's Committee in addition to its normal funding.

There would be no direct costs incurred in seeking democratic legitimacy for income tax devolution through party manifestos, rather than a referendum. However, as the Commission stated, "even if all parties were to endorse our proposals in their next manifestos, the electorate is unlikely to regard this

issue as the principal determinant of how they cast their vote.” As such the mandate for income tax devolution would be significantly weaker than endorsement in a referendum, when voters would cast their ballot specifically for or against the change.

Direct costs and benefits to business

None

DEVOLUTION OF STAMP DUTY LAND TAX

Problem under consideration

The Commission recommended the devolution of stamp duty land tax (SDLT), with a corresponding reduction made to the block grant, thus allowing the Assembly to levy its own taxes in respect of land and building transactions.

Policy objective

To provide the Welsh Government with an additional tool to manage housing policy in Wales, as well as an independent revenue stream to borrow against.

Description of options considered (including do nothing)

This Bill gives the Assembly full control over whether/how to tax land and building transactions in Wales.

The do nothing option would leave power for setting SDLT in Wales with the UK Government.

Costs and benefits of each option (including administrative burden)

The Government has agreed the Commission’s recommendation that it would benefit the Welsh Government to be able to implement a method of taxing land and building transactions to suit the specific circumstances in Wales. An opinion poll commissioned by the Commission found that 67% of respondents believed the Welsh Government should have the right to vary the level of SDLT.

SDLT receipts from land transactions in Wales amounted to £139m in 2012-13. As elsewhere, receipts fluctuate in line with activity and prices in the property market: they peaked at £235m in 2006-07. While a devolved tax on land transactions in Wales would allow the Welsh Government to raise or lower the rates of tax, research quoted by the Commission in its Part I report shows that transactions costs such as SDLT only marginally influence where individuals decide to locate and would not likely be a decisive factor in deciding where to move.

To further assess the costs and benefits of devolving SDLT, between July and September 2013 the UK Government carried out a consultation on the potential impacts on the construction industry and housing market on both sides of the border between Wales and England. As set out in an annex to the Government’s response to the Commission’s Part I report, 40 responses were received including from professional bodies, representative bodies, property developers, chartered surveyors and individuals. Of these responses, 15 were in favour of devolution while 10 were not. The remaining 15 responses were neutral or did not offer a view for or against devolution.

Those against devolution mainly identified potential tax increases or the benefits of a unified tax system as the reasons for their view. Those in favour of devolution highlighted the distinctive characteristics of the Welsh property market, the link to existing Welsh Government policy areas (housing and economic development) or expressed conditional support for the change, dependent on reforms they wanted to see implemented.

The costs of changes to HMRC’s IT systems and business processes necessary to implement the devolution of SDLT will fall to the Welsh Government. This is consistent with UK Government’s *Statement of Funding Policy*. HMRC is currently making changes to its systems and processes to ‘switch

off' the collection of SDLT in Scotland – this is estimated to cost in the region of £1m. The main costs of implementing the devolved tax in Wales will depend on the structure and nature of any tax on land transactions which the Assembly legislates to put in place.

The Commission noted that while the devolved taxes would only go a small way to increasing the financial accountability of the devolved institutions in Wales (compared to the devolution of income tax), they would also help empower the Welsh Government to deliver its policy objectives. This would, in turn, help make the Welsh Government more accountable to the Welsh public. The option of do nothing would not achieve the policy objective of providing the Welsh Government with an independent revenue stream or giving it additional policy levers over housing policy.

Direct costs and benefits to business

Existing SDLT returns already identify (by means of a code) the local authority area where a land transaction takes place. In most cases, this will allow transactions in England and Wales to be identified as such by HMRC and by any body established in future to collect and manage devolved taxes.

For most land transactions, there is no reason why the compliance burden in Wales or another part of the UK should increase as a result of the devolution of SDLT in Wales. Whilst specific impacts arising as a result of a new devolved tax on land transactions will depend on decisions taken by the Assembly and the Welsh Government, it can be expected that no significant additional compliance burdens should arise in the case of land transactions occurring either solely in Wales or solely outside Wales. There may be limited additional burdens for those who undertake transactions including land in Wales and elsewhere in the UK, given that any new land transaction tax in Wales is likely to be subject to new procedures which differ from those which apply to SDLT.

There is no separate land registration in England and Wales, and a limited number of registered and unregistered titles to land straddle the Wales / England border. Following implementation of a new devolved tax on land transactions in Wales, it would be necessary to split these titles into English and Welsh components for tax purposes. In the absence of a centrally-administered solution, it is likely that in this limited number of cases the compliance burden would fall upon the conveyancing profession, which in turn would be likely to pass this on to their clients in the form of higher fees.

LANDFILL TAX

The Commission recommended the devolution of landfill tax, with a corresponding reduction made to the block grant, thus allowing the Assembly to levy its own taxes in respect of the disposal of waste to landfill in Wales.

Policy objective

To provide the Welsh Government with a further independent revenue stream while giving it the most appropriate fiscal tools to manage waste management policy in Wales.

Description of options considered (including do nothing)

The Bill gives the Assembly full control over whether/how to tax disposals to landfill in Wales.

The do nothing option would leave power for setting landfill tax in Wales with the UK Government.

Costs and benefits of each option (including administrative burden)

The Government has agreed the Commission's recommendation that it would benefit the Welsh Government to be able to implement a new devolved tax on disposals to landfill to suit the specific circumstances in Wales. The Commission noted in its Part I report that the evidence it received supported the case for the devolution of landfill tax as it would provide a useful mechanism in a policy area already devolved to the Assembly (waste management). It would also provide additional

independent revenue against which the Welsh Government could borrow to invest in capital infrastructure.

The HMRC landfill tax register currently lists 203 landfill operators in the UK. 29 of the 723 landfill sites run by these operators (4%) are in Wales. The Commission estimated that LfT revenues in Wales were in the region of £50m in 2010-11, or just under 6% of the UK total. More recently HMRC has published figures from 1999-00 to 2012-13, which shows that LfT revenues in Wales were again in the region of £50m, 4.5% of the UK total, in 2012-13.

The costs of changes to HMRC's IT systems and business processes necessary to implement the devolution of landfill tax will fall to the Welsh Government. This is consistent with UK Government's *Statement of Funding Policy*. HMRC is currently making changes to its systems and processes to 'switch off' the collection of landfill tax in Scotland – the cost of this work has been negligible. The main costs of implementing the devolved tax in Wales will depend on the structure and nature of any tax charged on disposals to landfill in Wales which the Assembly legislates to put in place.

Direct costs and benefits to business

The current landfill tax return form issued by HMRC to registered operators does not require them to identify the geographical location of their taxable activity. The devolution of landfill tax in Wales is therefore likely to require a Wales-specific form to declare landfill tax returns. While landfill operators working across sites in Wales and the rest of the UK may face a limited additional burden by having to issue separate landfill tax returns to each administration, in general there should be little or no increase in the compliance burden. Again, the precise nature of the compliance burden is dependent on decisions made by the Assembly and Welsh Government about the new devolved tax on disposals to landfill in Wales.

CURRENT BORROWING

Problem under consideration

The devolution of SDLT and LfT adds volatility to the Welsh Budget compared to the current system of block grant funding. This is due to the potential variations in revenue as a result of economic and seasonal fluctuations. The Welsh Government will also need to manage forecast error, particularly where devolved tax revenues turn out to be lower than forecast.

Policy objective

The Government wishes to provide the Welsh Government with the most effective means of managing volatility and forecast error.

Description of options considered (including do nothing)

The Wales Bill extends the Welsh Government's short term current borrowing powers. In addition to being able to borrow to manage in-year cash-flow (as now) the Welsh Government will be able to borrow across years. The existing £500m current borrowing limit (set out in section 122 of the Government of Wales Act 2006) will apply to such borrowing. Alongside these extended borrowing powers, the Welsh Government is being provided with a cash reserve. While this doesn't require legislation, so isn't part of the Wales Bill, it will enable the Welsh Government to build up reserves when devolved tax revenues are high and use these reserves (instead of borrowing) when devolved tax revenues are lower than forecast.

It would be possible to provide the Welsh Government with the power to borrow to cover volatility in the tax take, but without setting a limit on that borrowing. A further alternative would require the Welsh Government to deal with any volatility using its existing budget and the creation of the cash reserve.

Costs and benefits of each option (including administrative burden)

Consistent with the Commission's recommendations, the UK Government sees no reason to introduce volatility into the Welsh Government's budget (through tax devolution) without providing the tools to manage this volatility. Otherwise the consequence of tax devolution would be to introduce unwelcome volatility into the levels of funding for public services provided in Wales.

As to limiting current borrowing, the Commission considered international evidence (and further evidence it received) that current borrowing should be placed within a framework that limits how much can be undertaken. The Commission therefore determined that it would be appropriate to set a limit, and recommended that this should initially be set at the level of the existing arrangements. The Government has accepted this recommendation. To further limit the potential impact of additional borrowing, the Government has determined that the Welsh Government can only borrow to fund current spending when Welsh tax revenues turn out to be lower than forecast.

As highlighted above, if the Welsh Government is not provided with the ability to manage its budget variations, this could lead to significant and unacceptable volatility in the Welsh Government's budget, and in turn in the level of services provided in Wales.

Direct costs and benefits to business

None.

CAPITAL BORROWING

Problem under consideration

The Welsh Government does not currently have access to borrowing for capital projects.

Policy objective

As part of its October 2012 joint announcement with the Welsh Government, the UK Government announced in principle that the Welsh Government should have access to borrowing powers to help fund capital infrastructure projects, subject to an independent revenue stream being in place to support this.

Description of options considered (including do nothing)

The Bill implements the Commission's recommendations by allowing the Welsh Government to borrow for capital purposes, initially supported by the revenues from the devolution of SDLT and LfT. The Bill introduces a capital borrowing limit of £500m and provides that this limit could be changed (up or down but not lower than the initial £500m) by the UK Government via secondary legislation, for example following a majority "yes" vote in a subsequent income tax referendum.

Provide the power to the Welsh Government to borrow, but do not set a limit on the face of the Bill (or alternatively set a higher limit).

Provide only current and not capital borrowing powers to the Welsh Government.

Costs and benefits of each option (including administrative burden)

The Government notes that in its Part I report the Commission found as many as 80% of those questioned as part of an opinion poll believed that the Welsh Government should have the power to borrow, and acknowledges that "international evidence suggests that borrowing may be the most economic and equitable way to finance sub-national government capital outlays on the grounds that borrowing can improve the allocation of resources over time". Borrowing also provides an additional element of financial accountability, as it provides the Welsh Government with the flexibility to determine when and how to invest in the Welsh economy.

In order to manage overall public borrowing, it is common for a national government to limit borrowing by a sub-national government. This is therefore the approach taken in this instance, as is the case in Scotland and Northern Ireland. However, it is important to note that the Northern Ireland (NI) Executive has similar powers and responsibilities to local authorities in other parts of the UK. In particular, it has control over similar revenue streams¹ and as a result the NI Executive's capital borrowing limit is designed to enable it to undertake borrowing that is equivalent to local authority borrowing in the rest of the UK. Therefore, the NI Executive's capital borrowing limit is not a relevant precedent when setting capital borrowing limits in Scotland and Wales.

In terms of the precise limit set in the Bill, applying the same tax/borrowing ratio as in Scotland would have given the Welsh Government a limit of perhaps £100m (alongside the devolution of roughly £200m of SDLT/landfill tax revenues). Specifically, the Scottish Government's capital borrowing limit is £2.2bn while it is taking on responsibility for tax revenues that are currently worth around £5bn. Hence the ratio between the two is slightly less than 1:2.

However, the Government recognises the importance of making improvements to the M4 in Wales. It has therefore decided to set an initial borrowing limit of £500m, so that the Welsh Government has the funding available to make improvements to the M4 should it choose to do so. The Wales Bill also contains a power that enables the UK Government to vary the overall limit both upwards and downwards (but not below the initial £500 million) without further primary legislation. The UK and Welsh

¹ The Northern Ireland Executive has control over district and regional rates, which together are equivalent to council tax and business rates in the rest of the UK.

governments have previously agreed a joint process to review levels of convergence in Welsh funding at each Spending Review, and the UK Government proposes to extend this process to ensure that the capital borrowing limit remains appropriate. The limit will be set at a level that the UK Government considers to be appropriate based on its assessment of the economic and fiscal circumstances at the time of each Spending Review, the impact of inflation on the real value of the limit, and on the size of the independent revenue stream available to the Welsh Government.

Furthermore, within the overall limit, a non-legislative annual limit of £125m has been agreed with the Welsh Government (from 2018-19 onwards). Alongside the overall cap, this annual limit ensures that the Government maintains control over total UK public sector borrowing. If an element of income tax is devolved in Wales, the Government would review the annual limit (as well as the overall limit) with the expectation that this would move onto the same basis (10 per cent of capital DEL each year) that is used in Scotland.

If the Welsh Government was not provided with capital borrowing powers (or if these powers were limited to the level implied by the Scottish tax/borrowing ratio) then infrastructure investment in Wales would be far more limited. This in turn would reduce the ability of the Welsh Government to stimulate the Welsh economy and would limit potential growth. The Commission noted in its Part I report that the devolution of borrowing powers would have a number of non-monetised benefits, including increasing the empowerment and accountability of the Welsh Government by providing it with more flexibility to invest in high value infrastructure projects than it has at present, which in turn could promote growth and efficiency.

However, consistent with increasing the Welsh Government's financial accountability, it is crucial that borrowing is limited within the UK's wider fiscal framework. The Silk Commission noted that the danger of excessive borrowing was a common theme of the evidence it received. The limit set by the Wales Bill therefore ensures that levels of borrowing remain affordable, both for the Welsh Government (who will need to support the costs of borrowing) and within the UK Government's overall deficit reduction plans.

Direct costs and benefits to business

In addition to borrowing from the National Loans Fund, Welsh Ministers can also borrow from commercial sources to fund capital spending. This may therefore provide opportunities for banks in Wales to support capital investment in Wales.

PART 3 - HOUSING REVENUE ACCOUNT SUBSIDY (HRAS)

Problem under consideration

The HRAS system in England was abolished under the Localism Act 2011, with each local authority gaining control over their housing stock in return for a one off payment to central government. This reform increases local authority revenues (as they retain rental income) so appropriate controls have been put in place to manage borrowing under the Prudential system. The HRAS system has not been reformed in Wales.

Policy objective

The objective is to facilitate a similar reform of the HRAS system in Wales by ensuring that housing borrowing is subject to appropriate controls.

Description of options considered (including do nothing)

The UK and Welsh Governments have agreed to impose limits on Welsh local authority borrowing in relation to housing. The Bill includes provision for the UK Government to set an aggregate cap and requires Welsh Ministers to set a cap on individual local authorities. It also provides Welsh Ministers with powers equivalent to those given to the Secretary of State in sections 171-173 of the Localism Act 2011.

There are two potential alternatives – the Welsh Government could set the overall cap, or no cap could be set. Both were rejected so that the UK Government can control borrowing within its deficit reduction plans.

Costs and benefits of each option (including administrative burden)

In July 2009 the Government published its consultation paper *Reform of Council Housing Finance*, in which the Government set out its preferred option of abolishing the housing revenue account subsidy in England and replacing it with a decentralised system of self financing. The alternative option was to retain but improve the existing system. Responses to this consultation favoured replacing HRAS with a decentralised system. This was followed in March 2010 by the consultation paper *Council Housing: A Real Future*, which set out proposals for self financing in more detail. The summary of responses to this paper revealed that an overwhelming majority of respondents agreed with the principle of self financing.

Before introducing the current system in England, under section 173 of the Localism Act 2011 the Secretary of State was required to consult representatives of local government and each local authority in England. Following this, a public consultation on the self-financing determinations ran from November 2011 to January 2012. In the response to the consultation, the Government noted that the overwhelming majority of local authorities who responded did not challenge the principles of self financing or the broad methodology for calculating settlements and valuation payments.

Under the existing HRAS system in Wales the Welsh Government estimates the expected income and expenditure for each local authority in Wales in relation to its housing stock. If estimated spending in Wales is above income, the UK Government covers the shortfall. If, however, the income of local authorities in Wales is greater than spending then the surplus (estimated to be some £73m per annum) is returned to the UK Government. In future, following the planned reforms, any surplus will be retained by Welsh local authorities, which is estimated at around £33m per annum (after the one off payments made by local authorities to the UK Government, via the Welsh Government). The retention of these surpluses will give local authorities in Wales more autonomy by allowing them to borrow additional funding to improve their housing stock to benefit the people of Wales. There are likely to be additional costs associated with a move to the new system in Wales although these are not possible to quantify precisely as such costs depend on the policy decisions taken by the Welsh Government in the future.

The Government rejected both options as they didn't provide sufficient control over additional borrowing.

Direct costs and benefits to business

None

RATIONALE FOR LEVEL OF ANALYSIS PROVIDED

The level of analysis in this impact assessment is constrained by the nature of the provisions under discussion. Many of the provisions in the Bill, particularly those in Part 2 (Finance), devolve powers to the Assembly and the Welsh Government - for example the powers to create devolved taxes to replace stamp duty land tax and landfill tax in Wales, to trigger a referendum in relation to the devolution of income tax and to prescribe budgetary procedures relating to the annual budget.

We have sought to give an indication of the potential costs and benefits of these changes where it has been feasible to do so, and to provide a robust rationale for our decision making. Where appropriate, we have drawn from the Silk Commission's first report, and further, detailed analysis of many of these issues is available in that report:

<http://commissionondevolutioninwales.independent.gov.uk/files/2013/01/English-WEB-main-report1.pdf>

Our analysis is however naturally limited by not knowing how the Assembly and the Welsh Ministers will choose to exercise their new powers. The actual costs and benefits of many of the provisions in the Bill will depend on decisions which the devolved institutions will take in future.

RISKS AND ASSUMPTIONS

Any risks and assumptions made in this analysis are set out in the detailed policy sections.

ONE-IN TWO-OUT

The provisions in the Bill are largely constitutional in nature, and do not impose directly any regulation on business (see *rationale* section above). Given this the measures fall outside the one-in two out requirement.

WIDER IMPACTS OF THE BILL

In this impact assessment the Government has examined the possible impacts on competition and small businesses of devolving certain taxes to the Assembly and Welsh Government, concluding that those impacts are limited in so far as they can be determined now. We have also noted that the impacts of fiscal devolution are not necessarily restricted to financial impacts - for example, a new tax on disposals to landfill in Wales could have various environmental impacts, depending on the detail of the new tax. Wider impacts of the Bill will depend in part on how the Assembly and Welsh Government exercise the devolved powers in future.

The Government has considered if the Bill will have any social or equality impacts and does not consider that it will. Nor do we consider it has any impact on the Charitable and Voluntary Sector.

POST-IMPLEMENTATION REVIEW (PIR) PLAN

<p>Basis of the review: As with all Government Acts, the Wales Act (if enacted) will be subject to post-legislative scrutiny 3-5 years after Royal Assent. Clause 22 of the Bill also requires the Secretary of State to report annually to Parliament, and the Welsh Ministers to report annually to the Assembly, on the implementation of Part 2 (Finance).</p>
<p>Review objective: Post-legislative scrutiny will cover the implementation of the Act (including secondary legislation), the operation of the Act in practice, legal issues, actual effects compared to those anticipated in the Impact Assessment and the performance of legislation against policy objectives. Subsection 22(7) of the Bill specifies the detail of what a report on the implementation and operation of Part 2 must include.</p>
<p>Review approach and rationale: Post-legislative scrutiny will focus on the effectiveness of the policy and its implementation, drawing on the annual reports published by the Secretary of State and the Welsh Ministers. In particular, views would be sought from the Welsh Government, the Assembly Commission and stakeholders in terms of the devolved taxes. The changes in electoral arrangements can be reviewed following the scheduled Assembly elections in 2016 and 2021. The review of devolved taxes will consider the process of devolution and implementation, rather than the operation of the new taxes (which will be a matter for the Assembly and the Welsh Government). The effectiveness of the Welsh Ministers new borrowing powers can be kept under continual review.</p>
<p>Baseline: N/A</p>
<p>Success criteria: On electoral arrangements a successful implementation of the Bill would lead to a system that is fairer and improves the integrity of Assembly elections. On fiscal devolution, successful implementation would result in the Assembly and the Welsh Government using their new fiscal tools to develop the Welsh economy and promote economic growth. It would also mean the Assembly exercising its power to trigger a referendum on the devolution of some income tax. On borrowing, successful implementation would mean, for example, the Welsh Ministers using their new borrowing powers to invest in improvements to infrastructure in Wales.</p>
<p>Monitoring information arrangements: Wales Office, HMT, HMRC and Welsh Government will all be monitoring the implementation of the Bill's measures. Formal reporting on the implementation and operation of financial measures is set out in clause 22 of the Bill.</p>
<p>Reasons for not planning a PIR: N/A</p>